

moving between the plurality of negotiation states responsive to the action [identified] selected from the group; and

storing data representing [the] a current state of the negotiation; wherein the current state of negotiation is determined by means of state transitions between the request action, promise action, and acceptance action, said state transitions having at least three tiers.

## II. REMARKS

### A. Non-Patent Reference

The Examiner requested a copy of a non-patent publication described in the Background section of the patent application. An Information Disclosure Statement, Form 1449, and copy of the publication accompany this Response.

### B. Declaration

The Examiner stated that the Declaration was defective. A new Declaration accompanies this Response.

### C. Claim Objections

Claims 19 and 20 have been amended as suggested by the Examiner.

### D. Claim Rejections, §102

The Examiner rejected Claims 1- 3, 6, 13 - 15, and 19 as being anticipated by U.S. Patent No. 5,794,207, issued to Walker, et al.

With respect to Claim 1, the claimed invention is directed to an entirely different negotiation process than the process to which the Walker patent is directed. Specifically, the present invention is directed to a request-promise-accept process. The steps involved are: a buyer requests, a seller promises to sell, and the buyer accepts. A good summary of the request-promise-accept process is set out on page 17, lines 9 - 28.

In contrast, the Walker patent is directed to a process where a buyer offers to buy (purchase offer) and a seller accepts.

This difference is not trivial. As explained below, the request-promise-accept protocol affects the entire architecture of the negotiation system of Claim 1.

The Examiner has incorrectly equated request-promise-accept elements of the present invention to elements described in Walker. For example, the Examiner makes the following analogies:

<u>present invention</u>	<u>Walker disclosure</u>
request object	CPO (conditional purchase order) database (Fig 2; 265)
promise object	seller's response to offer
acceptance object	Seller response database and contract detail database (Fig 2; 270 and 280)

In effect, the Examiner is arguing that the seller's response of Walker is the same as both the promise and acceptance of the present invention. Yet, obviously, in the present invention, the promise and acceptance are two different

actions by two difference actors, with different repercussions.

Claim 1 has been amended to more clearly recite the request-promise-accept limitations of the present invention. These actions are more clearly defined in terms of their actors and repercussions.

Specifically, Claim 1 has been amended to recite that negotiations are initiated by a request from a buyer. (page 12, lines 7 - 10). As explained below, even if the buyer's request is equated to the buyer's purchase order of Walker, the similarities end there.

Claim 1 has further been amended to recite that promises are a seller's response to a buyer's request. This is in contrast to the process of Walker, where the seller can only accept, thereby entering a binding contract. In the present invention, a seller promises to sell in accordance with a request, rather than accepts an offer to buy. There is no binding contract at this point. The buyer can still accept or reject the promise.

Claim 1 has further been amended to recite that acceptances are a buyer's response to a seller's promise. Clearly, the request-promise-acceptance process of the present invention is more flexible than the two-step negotiation process of Walker. The request-promise exchange prior to the acceptance provide an additional negotiation stage and avoid the yes-no (take it or leave) decision that a seller must make in the process of Walker.

The three-tiered system of the present invention is not obvious from the disclosure of Walker. As illustrated in

FIGURE 2, the three-tiered system has many possible states, lending itself to state transition processing. The states transition between at least three tiers: request, promise, and accept.

The simple system of Walker does not teach or suggest the need for a state transition type of representation. There are only two levels of negotiation: promise (purchase orders) and acceptances. Exchanges between buyer and seller involve only these two levels of negotiation.

Claims 2 - 19 are dependent on Claim 1. They are not anticipated by, or obvious in view of, Walker for the same reasons as Claim 1.

E. Claim Rejections, §103

Claims 1, 4, 5, 7 - 12, 16 - 18, and 20 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,794,207, issued to Walker. Applicants' disclosure was also cited against Claim 1 as "admitted prior art".

Additional references were also cited against Claims 16, 17, 18, and 20.

With regard to Applicants' disclosure, Applicants disagree with the extent to which there is "admitted prior art". To say that a process implements a traditional goal is not to admit that the process is old. The process may be a new implementation to reach an old result. Nothing is admitted on page 26 of Applicants' specification other than that there is a field of expertise known as "Order Management" or "Demand Management".

With regard to Claim 1, distinctions over Walker for purposes of §102 are discussed above. Even if it were obvious to add an additional negotiation step to the teachings of Walker, the result would not be the three-tiered state transition tracking process recited in Claim 1.

Claims 2 - 19 are dependent on Claim 1 and are allowable for the same reasons.

Claim 20 has been amended to recite limitations similar to those discussed above for Claim 1. These limitations distinguish Claim 20 from Walker as well as from the referenced art, namely, U.S. Patent No. 5,734,837 to Flores, et al., and U.S. Patent No. 5,504,837 to Griffeth, et al.

Flores, et al. do not teach the same three phase negotiation process of Claim 20. The preparation phase of Flores (described in col. 3, lines 59 - 62) is described as being either a request or an offer. This is not the same as the negotiation protocol recited in Claim 20, in which a promise responds to a request. In effect, Flores teaches away from the present invention by equating requests and offers rather than distinguishing between them.

The Examiner has cited Griffeth for only a limited teaching. Applicants agree with a restricted use of the teachings of Griffeth. Griffeth is directed to negotiation between telecommunications devices. The negotiation process concerns entities and operations not applicable to the entities and operations of the present invention.

III. CONCLUSION AND FEES

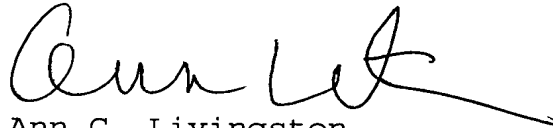
Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, Applicants respectfully request full allowance of Claims 1 - 20.

An extension of 1 month is requested and a Notification of Extension of Time Under 37 C.F.R. § 1.136 with the appropriate fee is attached hereto.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker & Botts, L.L.P.

Respectfully submitted,

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